

MAY 18 2010

COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR'S OFFICE
HELENA, MONTANA

IN THE MATTER OF

RONALD MOSCHETTA,
individually and in his capacity as a
securities salesperson for Strasbourger Pearson
Tulcin Wolff Inc., and

STRASBOURGER PEARSON TULCIN
WOLFF INC.
600 Old Country
Garden City, NY 11530

Respondents.

CASE NO. SEC-2009-14

FINAL AGENCY DECISION AND ORDER

The Commissioner of Insurance and Securities, office of the State Auditor (CSI) having fully read and considered the matters set forth in the Motion for Entry of Default Judgment; the Department's Proposed Findings of Fact, Conclusions of Law and Proposed Order submitted by the Department of Securities (Department), by and through its legal counsel, Roberta Cross Guns, and the Notice of Entry of Default Judgment that has been entered in the matter, as well as a review of the relevant law, the Commissioner issues the following:

FINDINGS OF FACT

Having reviewed the complete record in these proceedings, the Commissioner hereby adopts the Findings of Fact as follows:

1. Respondents Ronald Moschetta, individually and in his capacity as a securities salesperson for Strasbourger Pearson Tulcin Wolff Inc. (Moschetta), and Strasbourger Pearson Tulcin Wolff Inc. (Strasbourger) (collectively “Respondents”) engaged in securities transactions

in certain customer accounts without proper registration to conduct such business in Montana from September 5, 2008 to present. (Consent Agreement dated April 20, 2009.)

2. Respondents solicited the following securities transactions without being registered to conduct such business in the state of Montana (Consent Agreement):

| Client | Purchased | Description | Symbol | Initial Price | Close a/o 3/18/2009 | Gain/Loss |
|------------|-----------|----------------------------------|--------|---------------|---------------------|----------------------|
| Investor 1 | 1000 | Freddie Mac General | FRE | \$ 4.83 | \$ 0.82 | \$ (4,829.18) |
| Investor 1 | 1000 | Motors Micron | GM | \$10.52 | \$ 2.64 | (10,517.36) |
| Investor 1 | 1500 | Technology | MU | \$ 4.23 | \$ 3.77 | \$ (6,341.23) |
| Investor 1 | 100 | Teco Energy General | TE | \$16.02 | \$11.12 | \$ (1,590.79) |
| Investor 1 | 25000 | Motors Deb 8.375 7/15/33 General | GM.HB | \$ 51.75 | \$13.25 | \$(12,924.25) |
| Investor 1 | 25000 | Motors Deb 8.375 7/15/33 General | GM.HB | \$ 37.85 | \$13.25 | \$ (9,449.25) |
| Investor 2 | 50000 | Motors Deb 8.375 7/15/33 | GM.HB | \$ 22.13 | \$13.25 | \$ (5,518.00) |
| | | | | | | \$(51,170.06) |

3. The Department and the Respondents Moschetta and Strasbourger entered into a formal Consent Agreement wherein Respondents agreed to pay a fine of \$2,000; restitution in the amount of \$51,170.06; and a contribution to the Investor Protection Fund of \$1,500. The Consent Agreement contained a clause tolling the statute of limitations and seeking up to \$40,000 in fines and a permanent ban on registration and licensure in Montana should Respondents fail to abide by the terms. (Consent Agreement.)

4. Respondents sent a check for \$2,000 to the State of Montana as payment of the fine they agreed to in the Consent Agreement. The check was subsequently returned for non-

sufficient funds. Respondents refused to provide sufficient funds to cover the check or a new check to pay the fine they agreed to pay. (Affidavit of Sharon McCabe dated February 1, 2010.)

5. Respondents paid \$1,500 to the Investor Protection Trust as agreed in the Consent Agreement.

6. Respondents failed to repay one victim \$50,000 restitution as required by the Consent Agreement. (Affidavit of Stephanie Clark dated March 24, 2010.)

7. The Department filed a Notice of Proposed Agency Disciplinary Action and Opportunity for Hearing (Agency Action) seeking to enforce the Consent Agreement on or about July 2, 2009. Respondents were served by certified mail, return receipt requested. Respondents signed for the certified mail on or about July 6, 2009, as evidenced by the return receipt. (Exhibit D to Motion for Entry of Default Judgment.)

8. Respondents failed to request a hearing within the 15 days provided in the Agency Action.

9. The Department filed an Amended Notice of Proposed Agency Disciplinary Action and Opportunity for Hearing (Amended Action) on or about October 30, 2009. Respondents were served a copy of the Amended Action by certified mail, return receipt requested. Respondents signed for the certified mail on or about November 4, 2009, as evidenced by the return receipt. (Exhibit E to Motion for Entry of Default Judgment.)

10. The Amended Notice sought an additional \$40,000 fine for violation of the Consent Agreement and a permanent ban on registration or licensure for the Respondents.

11. Respondents failed to contest the proposed amended action or the relief requested in the action. Nor did they request a hearing within the 15 days provided in the Amended Action.

12. A Request for Entry of Default was filed on March 4, 2010.
13. Notice of Entry of Default was entered against the Respondents on March 4, 2010.
14. A Motion for Entry of Default Judgment with support exhibits attached was filed on April 2, 2010.
15. On April 26, 2010, the Department filed Proposed Findings of Fact, Conclusions of Law and Order in support of a default judgment against the Respondents.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Commissioner hereby makes the following Conclusions of Law:

1. The State Auditor is the Commissioner of Securities pursuant to Mont. Code Ann. §§ 2-15-1901 and 30-10-107.
2. The administration of the Securities Act of Montana, Mont. Code Ann. §30-10-101, *et seq.*, is under the supervision and control of the Securities Commissioner. Mont. Code Ann. § 30-10-107.
3. The Securities Act of Montana shall be construed to protect investors, persons engaged in securities transactions, and the public interest. Mont. Code Ann. § 30-10-102.
4. Respondents violated Mont. Code Ann. § 30-10-201, by soliciting seven trades without properly registering with the state.
5. Respondents violated §§ 30-10-201(13) (i), by failing to fully comply with a consent agreement, including payment of a fine, entered into with the Department. Montana Code Ann. § 30-10-201(18).

ORDER

From the foregoing Findings of Fact and Conclusions of Law, the Commissioner enters the following Order:


1. Respondents Moschetta and Strasbourger are ordered to comply with the consent agreement and are jointly and severally liable for:
 - a. paying an administrative fine to the State of Montana in the amount of \$2,000;
and
 - b. paying restitution to Montana consumers, Barry and Stephanie Clark, in the amount of \$50,000.00.
2. Respondents are ordered to pay an additional administrative fine of \$40,000 for violating the terms of the consent agreement and failing to file an appearance in the Amended Notice of Agency Action and Opportunity for Hearing. Respondents are jointly and severally liable for the \$40,000 fine.
3. Respondent Moschetta's application for registration and license in Montana is hereby ordered to be permanently denied for violating the provisions of the consent agreement, pursuant to Mont. Code Ann. § 30-10-201(13) (i).
4. Respondent Strasbourger's application for registration and license in Montana is hereby ordered to be permanently denied for violating the provisions of the consent agreement, pursuant to Mont. Code Ann. § 30-10-201(13) (i).

NOTICE OF OPPORTUNITY FOR JUDICIAL REVIEW

Respondents are hereby notified of their right to request judicial review of this Final Agency Decision and Order by filing a petition for judicial review within 60 days of service of

this Final Agency Decision and Order with the First Judicial District Court in Lewis and Clark County, Montana, as provided in Mont. Code Ann. §§ 2-4-702 and 30-10-308.

SO ORDERED this 18th day of May, 2010.



MONICA J. LINDEEN
Commissioner of Securities and Insurance
Office of the Montana State Auditor

CERTIFICATE OF SERVICE

I do hereby certify I served a copy of the foregoing Final Agency Decision and Order upon all parties of record on the 18th day of May, 2010, by U.S. Mail or hand delivering a copy thereof to:

Roberta Cross Guns
State Auditor's Office
840 Helena Avenue
Helena, MT 59601

Ronald Moschetta
Strasbourger Pearson Tulcin Wolff Inc
600 Old Country
Garden City, NY 11530

Strasbourger Pearson Tulcin Wolff Inc
600 Old Country
Garden City, NY 11530

Hartley T. Bernstein, Esq.
Bernstein Levine Cherney LLP
777 Third Avenue, 24th Floor
New York, New York 10017



Susan Paulson-Davis